

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

APPLETON PAPERS INC. and
NCR CORPORATION,

Plaintiffs,

v.

Case No. 08-CV-16

GEORGE A. WHITING PAPER
COMPANY, et al.,

Defendants.

**PLAINTIFF APPLETON PAPERS INC.'S
MOTION FOR RECONSIDERATION OF THE COURT'S DISMISSAL
OF ITS CLAIM FOR RELIEF UNDER CERCLA § 107(a)**

Plaintiff Appleton Papers Inc. ("API"), by its undersigned counsel, respectfully moves the Court to reconsider its dismissal of API's claim under CERCLA § 107(a) for recovery of costs that API incurred in connection with the Lower Fox River 106 Order. API is filing this motion pursuant to the Court's decision of March 29, 2013 in the Enforcement Action, in which the Court dismissed API's § 107 cross-claims in that action and ruled that any claim for relief under CERCLA implicated by the Court's decision of April 10, 2012 in the Enforcement Action (finding that API is not liable under CERCLA for PCB contamination in the Lower Fox River) should be pursued in this action.

Reconsideration of the Court's dismissal of API's § 107 claims in this action is warranted in view of the April 10, 2012 decision and CERCLA case law developments, including the Seventh Circuit's recent decision in *Bernstein v. Bankert*, 702 F.3d 964 (7th Cir. 2012). The grounds for this motion are further explained in API's supporting brief, which is being filed with this motion.

API further requests that the Court grant it leave to file an amended complaint that amends its § 107 claim to reflect present circumstances.

Dated this 19th day of April, 2013.

Respectfully submitted,

APPLETON PAPERS INC.

By: /s/ Ronald R. Ragatz
One of Its Attorneys

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